IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Aditya Agarwal Vs. State of Rajasthan

S.B.CR.MISC. APPLICATION NO.1307/2006

IN

S.B.CR.MISC. PETITION NO.768/2006

DATE OF ORDER :: October 10, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Sandeep Mehta, for the petitioner.

Mr. Ashok Upadhyaya, P.P.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner seeks recalling of the order dt. 13.9.2006 passed by this Court in S.B.Criminal Misc. Petitions No.768/2006 and 1204/2006, whereby an elaborate order, these criminal misc. petitions filed by Abdul Jabbar, petitioner therein, were allowed.

Mr. Sandeep Mehta, counsel for the petitioner submits that the notices were served on the present petitioner, who is non-petitioner No.2 in the criminal misc. petitions No.768/2006 and 1204/2006, and he was engaged. He submits that he filed the memo of appearance on behalf of non-petitioner No.2 therein but the same was not placed in the file as also his name was not shown in the cause list and, therefore, he could not appear and contest the case. In Adalat Prasad Vs. Roop Lal Jindal & Ors., **JT 2004 (7) 243** and Subramanim Sethuram vs. State of Maharashtra & Anr., **2004 Cr.L.J. 4609,** the Hon'ble Supreme court held that there is no power of review or recall the order. The Code of Criminal Procedure does not contemplate the power of review or recall the order except section 362 Cr.P.C., which provides that court not to alter the judgment save as otherwise provided by this Code or by any other law for the time being in force, no Court, when it has signed its judgment or final order, disposing of a case, shall alter or review the same, except to correct a clerical or arithmetical error. In the instant case, there is neither any clerical nor arithmetical error has been pointed out.

Keeping in view the two decisions of the Hon'ble Supreme Court referred hereinabove, no case for reviewing or recalling

the order dt. 13.9.2006 is made out.

The petition is, therefore, dismissed.

[H.R.PANWAR],J.

m.asif/-